

Rule 81. Papers Filed; Conformity; Form, Size, Copies

(a) Conformity Required. All papers filed with the court shall be produced, duplicated, and filed in conformity with these rules as to means of production, methods of duplication, form and size, and number of copies.

(b) Means of Production. All papers shall be plainly and legibly typewritten or otherwise produced by any duplicating or copying process.

(c) Caption and Signing. All papers shall bear a caption in conformity with Rule 7 and shall be signed in conformity with Rule 11.

(d) Numbering of Pages. The pages of each paper shall be numbered consecutively, commencing with the number 1.

(e) Designation of Originals. When multiple copies of a paper are filed, one shall be designated as the original by the party.

(f) Pleadings and Other Papers. Unless otherwise provided by these rules, all papers shall be filed in duplicate, only the original of which need be signed. Pleadings and other papers shall be 8½ by 11 inches in size, with typed matter not exceeding 6½ x 9½ inches, and with type size of 12 points or larger, including type used in footnotes. Pages shall be numbered on the bottom portion thereof and bound or attached on the top margin. Typed matter shall be double spaced except footnotes, which may be single spaced, quoted material which may be indented and single spaced, and titles, schedules, tables, graphs, columns of figures, and other interspersed material which are more readable in a form other than double spaced.

(g) Status of Action. Papers filed after an action has been commenced shall identify, with respect to each action affected by the papers, the court number assigned to the action, the court calendar on which the action is listed; and, if the action has been assigned, the name of the judge to whom the action has been assigned or reassigned.

(h) Confidential Information.

(1) If a party deems it necessary to refer in a pleading, motion, brief or other paper to confidential or privileged information, two sets of the pleadings, motions, briefs or other papers shall be filed.

(A) Confidential Set. One set of the pleadings, motions, briefs or other papers shall be labeled "Confidential" on the cover page and be filed with the clerk of the court. In addition, each page containing confidential material shall bear a legend so indicating; however, in an action where Rule 71(c) is applicable, the label "Business Proprietary" may be used instead.

(B) Nonconfidential Set. The second set of pleadings, motions, briefs or other papers shall be labeled "Nonconfidential" on the cover page and be filed with the clerk of the court. In addition, each page of the "nonconfidential" set from which confidential or privileged information has been deleted shall bear a legend so stating.

(2) Each party to the action shall be served with one copy of the "nonconfidential" pleading, motion, brief or other paper, and, when permitted by an applicable protective order, one copy of the "confidential" pleading, motion, brief or other paper, in accordance with Rule 5.

(3) Non-Availability to the Public. The "confidential" set of pleadings, motions, briefs or other papers filed with the court shall be available only to authorized court personnel and shall not be made available to the public.

(i) Briefs--Trial and Pretrial Memoranda. Briefs, trial and pretrial memoranda shall be

filed in duplicate and shall be 8 1/2 by 11 inches in size. Pages shall be numbered on the bottom portion thereof and bound or attached on the left margin. Typed matter shall be double spaced, except quoted material which may be indented and single spaced, and except titles, schedules, tables, graphs, columns of figures, and other interspersed material which are more readable in a form other than double spaced.

(j) Content--Moving Party's Brief. The brief of the moving party shall contain under proper headings and arranged in the following order:

(1) a table of contents;

(2) a table of statutes, regulations, and cases cited, giving the volume and page in the official editions where they may be found, and arranging the cases in alphabetical order;

(3) in an action involving a specific importation, a brief description of the merchandise, country of origin and of exportation, date of exportation, date of entry, and port of entry;

(4)(A) in actions involving classification, the verbatim paragraph or paragraphs or item or items of the tariff statute under which the merchandise was assessed, and the verbatim paragraph or paragraphs or item or items under which it is claimed that the merchandise is properly dutiable, together with any other verbatim pertinent statutory provisions or regulations; (B) in actions involving valuation, the statutory basis of appraisement and the unit of value at which the merchandise was appraised, and the claimed statutory basis of value and unit of value, together with the verbatim pertinent statutory provisions;

(5) the questions presented for decision, including all subsidiary questions involved; when a brief is filed under Rule 56.2, the issues shall be presented in accordance with Rule 56.2(c)(1)(B), and need not be restated under

this paragraph (5);

(6) a concise statement of facts relevant to the issues with a specific citation to the page or pages in the record or exhibits supporting each such material fact;

(7) a summary of argument, which shall be succinct, but accurate and clear, condensation of the contentions made in the body of the brief;

(8) an argument, exhibiting clearly the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, exhibits, and pages of the record relied upon;

(9) a short conclusion stating the relief sought.

(k) Content--Respondent's Brief. The brief of the respondent shall conform to the requirements prescribed in subdivision (j) of this rule, except that no statement of the facts need be made beyond what may be deemed necessary to correct any inaccuracies or omissions in the moving party's brief, and except that items (3), (4) and (5) need not be included unless the respondent is dissatisfied with their presentation by the moving party.

(l) Content--Reply Brief. A reply brief shall be confined to rebutting matters contained in the brief of the respondent.

(m) General. Briefs must be compact, concise, logically arranged, and free from burdensome, irrelevant, immaterial and scandalous matter. Briefs not complying with this rule may be disregarded by the court.

PRACTICE COMMENT: All decisions of the United States Court of International Trade are published in: slip opinion form, the Customs Bulletin, and the official reports of the United States Court of International Trade. Certain decisions will also be published in the Federal Supplement or the Federal Rules Decisions.

The rules of citation for papers filed in the court are as follows:

1. Slip Opinions

When citing a slip opinion, one should cite the slip opinion number, together with the volume number of the official reports, if available, and full date of publication. This form is used until the opinion appears in full in the United States Court of International Trade Reports (CIT).

Examples

Carlisle Tire and Rubber Co. v. United States, 564 F. Supp. 834, 5 CIT 229, Slip Op. 83-43 (May 18, 1983);

OR, if the volume number is not available, __CIT__, Slip Op. 83-43 (May 18, 1983).

2. Published Opinions

After an opinion appears in the official CIT reports, Federal Supplement (F. Supp.), or Federal Rules Decisions (F.R.D.), the slip opinion is no longer used, and the citation is to the official reports, and unofficial reports, if available, together with the year of publication. One should not cite the Customs Bulletin and Decisions in any event.

Example

American Shack Co. v. United States, 1 CIT 1 (1980).

If the opinion is also published in F. Supp. or F.R.D., citation of these reporters should follow the citation of the official reports.

Examples

Zenith Radio Corp. v. United States, 1 CIT 53, 505 F. Supp. 216 (1980) [or 99 F.R.D. 100 (1980)];

NOT, 1 CIT 53, Slip Op. 80-10, 505 F. Supp. 216 (1980).

3. Customs Court Opinions

The form of citation for opinions of the United States Customs Court remains the same.

Examples

Labay Int'l, Inc. v. United States, 83 Cust. Ct. 152, C.D. 4834 (1979);

OR, if there is a F. Supp. or F.R.D. cite,

Alberta Gas Chems., Inc. v. United States, 84 Cust. Ct. 217, C.R.D. 80-1, 483 F. Supp. 303 (1980).

4. Abstracts

Abstracts of decisions not supported by an opinion should be numbered, published, and cited. These abstracts include decisions and judgments on agreed statements of facts, on motions for summary judgments, and on motions for judgments on the pleadings in only classification and valuation cases.

Examples

Uniroyal, Inc. v. United States, 84 Cust. Ct. 275, Abs. P80/59 (1980);

Nichimen Co. v. United States, 1 CIT 234, Abs. R81/20 (1981).

5. Decisions of the Board of General Appraisers

Citation of the decisions of the Board of General Appraisers should be as follows:

Example

In re Pickhardt & Kuttroff, T.D. 20,728, 1 Treas. Dec. 373 (1897).

6. Court of Customs Appeals Opinions

Citation of the opinions of the Court of Customs Appeals (Ct. Cust. App.) should be as follows:

Example

Kahlen v. United States, 2 Ct. Cust. App. 206 (1911).

7. Court of Customs and Patent Appeals

Citation of opinions of the Court of Customs and Patent Appeals (CCPA) should be as follows:

Examples

Coro, Inc. v. United States, 41 CCPA 215, C.A.D. 554 (1954);

OR, if there is an F.2d cite,

United States v. Mobay Chem. Corp., 65 CCPA 53, C.A.D. 1206, 576 F.2d 368 (1978).

8. Court of Appeals for the Federal Circuit

Due to the discontinuation of the CCPA Reports, all Federal Circuit opinions should be by F.2d cite or, if not available, by case number unless the Federal Circuit decides to publish its opinions in a successor to the CCPA reporter.

Examples

Nippon Kogaku (USA), Inc. v. United States, 673 F.2d. 380 (Fed. Cir. 1983),

OR, if the F.2d cite is not available,

Jarvis Clark Co. v. United States, Appeal No. 83-1106 (Fed. Cir. May 2, 1984);

NOT, Jarvis Clark Co. v. United States, Appeal No. 83-1106, Slip Op. (C.A.F.C. May 2, 1984).

9. Statutes

Citation of statutes of the United States should include both the popular name of the act and the title and section of the United States Code.

a) Citation of a statute as it appears in a sentence in text.

Example

Plaintiff moves for certification pursuant to section 222(3) of the Trade Act of 1974, 19 U.S.C. § 2272(3) (1982).

b) Citation standing alone.

Example

Trade Act of 1974, § 222(3), 19 U.S.C. § 2272(3) (1982).

10. Rules

Citation of the rules of this court and its predecessor court, the Customs Court, should be as follows:

a) Rules of the United States Court of International Trade

Example

USCIT R. 56

b) Rules of the United States Customs Court

Example

Cust. Ct. R. 4.6

11. Miscellaneous

Ellipsis (. . .)

Pursuant to Rule 5.3 of A Uniform System of Citation, when a word or words are omitted from quoted material it should be indicated by an ellipsis (. . .), and not asterisks (***)).

For further rules of citation, reference may be made to A Uniform System of Citation (The Harvard Law Association). For punctuation, capitalization, abbreviations, and other matters of style, reference may be made to the U.S. Government Printing Office Style Manual. Assistance in citing recent decisions of this court may be obtained from the court librarian (212-264-2816).

PRACTICE COMMENT: The court has established Security Procedures For Safeguarding Confidential Information in the Custody and Control of the Clerk. These procedures apply to confidential information or privileged information received by the court and may include: trade secrets, commercial and financial information, and information provided to the United States by foreign governments or foreign businesses or persons. These procedures do not pertain to national security information.

Section 11(a) of the Security Procedures regulates the transmittal of confidential information to and from the clerk by government agencies and private parties. A copy of Section 11(a) is available upon request from, and is posted in the Office of the Clerk.

PRACTICE COMMENT: Compliance with Rule 81 is encouraged because it will facilitate review of papers by the court. Pursuant to Rule 82(d), the clerk may refuse to accept any paper presented for filing because it does not comply with the procedural requirements of the rules or practice of the court. Additionally, a judge may reject nonconforming papers or take other appropriate action if it is determined that such action is warranted.

PRACTICE COMMENT: For an action under 28 U.S.C. §1581(c), Rule 5(h) contains requirements for designating of business proprietary information and the form of notification required when a party desires to delay filing a non-confidential version of a submission by one business day.

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; July 28, 1988, eff. Nov. 1, 1988; Nov. 29, 1995, eff. Mar. 31, 1996; May 1, 1998, eff. Sept. 1, 1998; Jan. 25, 2000, eff. May 1, 2000; Dec. 18, 2001, eff. Apr. 1, 2002.)